

## **REMARKS**

The Final Office Action dated December 10, 2008 has been given careful consideration by the applicant. Claims 1, 10 and 18 have been amended; claims 24 and 25 have been cancelled. Claims 1-5 and 7-23 remain in the application. Reconsideration and/or reexamination of the application is hereby respectfully requested by the applicant.

### **I. The Office Action**

The Examiner rejected claims 1-2, 4-5, 7, 10-15 and 19 under 35 U.S.C. §103(a) as being unpatentable over Shinohara (U.S. Pub. No. 2002/0132608) in view of Pyhalammi *et al.* (U.S. Pub. No. 2003/0045273)

The Examiner rejected claims 18, 20 and 23-25 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Pyhalammi, and in further view of Kring *et al.* (U.S. Pub. No. 2003/0105825).

The Examiner rejected claim 3 under 35 U.S.C. §103(a) Shinohara in view of Pyhalammi *et al.*, and further in view of Tervo *et al.* (U.S. Pub. No. 2004/0207719).

The Examiner rejected claims 8 and 16 under 35 U.S.C. §103(a) Shinohara in view of Pyhalammi *et al.*, and further in view of Cox *et al.* (U.S. Pub. No. 2001/0044325).

Examiner rejected claim 21 under 35 U.S.C. §103(a) Shinohara in view of Pyhalammi *et al.*, and further in view of Kring *et al.*, and Cox *et al.*

Examiner rejected claims 9 and 17 under 35 U.S.C. §103(a) Shinohara in view of Pyhalammi *et al.*, and further in view of Turunen (U.S. 7,289,792).

Examiner rejected claim 22 under 35 U.S.C. §103(a) Shinohara in view of Pyhalammi *et al.*, and further in view of Kring *et al.*, and Turunen.

### **II. Rejection of Claims 1-2, 4-5, 7, 10-15 and 19 Under 35 U.S.C 103(a)**

The Examiner rejected claims 1-2, 4-5, 7, 10-15 and 19 as being unpatentable over Shinohara in view of Pyhalammi *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reason. The cited portions of the references,

whether taken alone or in combination, fail to disclose or suggest applicant's claimed subject matter.

The claimed subject matter relates to mobile-to-mobile video capability on a network. A delivery preference for a user of a mobile station can be determined. In particular, independent claim 1 recites a mobile switching center comprising the claimed modules. Independent claims 10 and 18 recite similar features. The cited portions of the references, whether taken alone or in combination, fail to disclose or suggest applicant's claimed subject matter.

Shinohara appears to allow the sender of a multimedia message to detect, before a message is sent, whether a destination mobile device is capable of receiving the message. This information is provided by a database server, which can store information relating to the formats of a multimedia message that a device can receive.

Although Shinohara appears to convey information about acceptance of a message format for a given recipient, Shinohara is silent with respect to a mobile switching center, or a mobile switching center that comprises the claimed modules. Thus, Shinohara fails to disclose or suggest each and every element of the claimed subject matter.

Moreover, Pyhalammi *et al.* is also silent with respect to the subject claims. Pyhalammi *et al.* appears to disclose a mobile content delivery system that allows for scheduled delivery. A mobile content delivery (MCD) system can store content, and schedule the delivery of the content for a later date (See Paragraph [0019]).

However, Pyhalammi *et al.* fails to make up for the aforementioned deficiencies of Shinohara for at least the following reasons. First, Pyhalammi *et al.* fails to disclose or suggest a mobile switching center to perform the functions of the MCD system. In addition, the MCD system of Pyhalammi *et al.* appears to reside independently of any other network elements. The assertion that the MCD system resides apart from other components is evidenced by the drawings of Pyhalammi *et al.* and, for example, paragraph [0025]. The paragraph states that once an MCD is selected, the Layer 7 switch forwards the message content to the ... MCD system. Accordingly, the cited reference fails to disclose or suggest a mobile switching center comprising the claimed modules.

In view of the foregoing, it is readily apparent that the cited references, whether taken alone or in combination, fail to disclose or suggest each and every element of the subject claims. Accordingly, it is respectfully requested that this rejection be withdrawn.

### **III. Rejection of Claims 18, 20 and 23-25 Under 35 U.S.C. §103(a)**

Claims 18, 20 and 23-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Pyhalammi *et al.*, and in further view of Kring *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. The cited portions of the references, whether taken alone or in combination, fail to disclose or suggest the claimed subject matter.

Independent claim 18 recites a mobile switching center comprising claimed means. Claims 20 and 23-25 depend from claim 18. As noted *supra*, the cited portions of Shinohara and Pyhalammi *et al.* fail to disclose or suggest a mobile switching center. Kring *et al.* appears to disclose a mobile switching center (MSC), but Kring *et al.* does not disclose or suggest that the MSC can be modified to incorporate the claimed modules, or equivalent functions of the claimed modules. Thus, Kring *et al.* fails to disclose or suggest each and every element of the subject claim.

Furthermore, independent claim 18 recites *wherein delivery preferences include a rejection of video data, immediate delivery of video data, delayed delivery of video data and conditional delivery of video data*. Claims 1 and 10 recite similar features. The Examiner concedes that Shinohara and Pyhalammi fail to disclose or suggest a rejection of data, and offers Kring *et al.* to cure this deficiency. However, Kring *et al.* fails to disclose or suggest each and every element of the subject claims.

Kring *et al.* appears to disclose a method of managing messages to mobile devices across a wide-area network. The Examiner contends that Kring *et al.* discloses rejection of video data, because discarding is allegedly analogous to rejection. However, the cited passage merely states that queues can be based on user parameters or service parameters, and that queues can discard messages. The cited passage fails to disclose that the user can specifically set a parameter in the queue to allow discarding of messages. Thus, the cited passage fails to fairly disclose *wherein delivery preferences include a rejection of video data, immediate delivery of video data,*

*delayed delivery of video data and conditional delivery of video data*, as recited by independent claim 18.

In view of the foregoing, it is readily apparent that the cited references, whether taken alone or in combination, fail to disclose or suggest each and every element of independent claim 18 (and associated dependent claims 20 and 23-25). Accordingly, it is respectfully requested that this rejection be withdrawn.

**IV. Rejection of Claim 3 Under 35 U.S.C. §103(a)**

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Pyhalammi *et al.*, and further in view of Tervo *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 3 depends from independent claim 1, and the cited portions of Tervo *et al.* fail to make up for the aforementioned deficiencies of Shinohara and Pyhalammi *et al.* with respect to independent claim 1. Accordingly, this rejection should be withdrawn.

**V. Rejection of Claims 8 and 16 Under 35 U.S.C. §103(a)**

The Examiner rejected claims 8 and 16 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Pyhalammi *et al.*, and further in view of Cox *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 8 and 16 are dependent from independent claims 1 and 10, respectively. The cited portions of Cox *et al.* fail to remedy the aforementioned deficiencies of Shinohara and Pyhalammi *et al.* with respect to independent claims 1 and 10. Thus, it is submitted that this rejection should be withdrawn.

**VI. Rejection of Claim 21 Under 35 U.S.C. §103(a)**

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view of Pyhalammi *et al.*, and further in view of Kring *et al.* and Cox *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 21 depends from independent claim 18. Cox *et al.* fails to make up for the aforementioned deficiencies of the remaining references. Accordingly, this rejection should be withdrawn.

**VII. Rejection of Claims 9 and 17 Under 35 U.S.C. §103(a)**

The Examiner rejected claims 9 and 17 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view Pyhalammi *et al.*, and further in view of Turunen. It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 9 and 17 depend from independent claims 1 and 10, respectively, and the cited portions of Turunen fail to remedy the above-mentioned deficiencies of Shinohara and Pyhalammi *et al.* with respect to independent claims 1 and 10. Thus, it is submitted that this rejection should be withdrawn.

**VIII. Rejection of Claim 22 Under 35 U.S.C. §103(a)**

The Examiner rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Shinohara in view Pyhalammi *et al.*, and further in view of Turunen and Kring *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 22 depends from independent claim 18. The cited passages of Kring *et al.* fail to cure the above-mentioned deficiencies of the remaining portions of the references with respect to the subject claims. Accordingly, it is respectfully requested that this rejection be withdrawn with respect to claim 22.

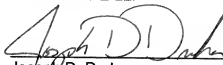
### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-5 and 7-23) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Joseph D. Dreher, at (216) 363-9000.

Respectfully submitted,

FAY SHARPE LLP

A handwritten signature in black ink, appearing to read "Joseph D. Dreher", is written over a horizontal line.

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June 10, 2009

Date